

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION

ROBERT EARL SHAFER, #1053332

v.

NATHANIEL QUARTERMAN,  
DIRECTOR OF TDCJ-CID

§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. G-04-072

**ORDER**


On March 26, 2007, Petitioner filed a Notice of Appeal of this Court's March 20, 2007, Order denying his motion for reconsideration of its prior Order denying his Motion for Certificate of Appealability. (Instrument No. 29). Although Petitioner has not filed an application for a Certificate of Appealability that sets forth the issues he intends to pursue on appeal, this Court may address the matter of his entitlement to a Certificate of Appealability *sua sponte*. *Alexander v. Johnson*, 211 F.3d 895 (5<sup>th</sup> Cir. 2000).

Under 28 U.S.C. § 2253(c)(2), a Certificate of Appealability may issue only if Petitioner has made a substantial showing of the denial of a constitutional right. In accordance with paragraph 2253(c)(3), this Court must specify which issues satisfy the showing under subparagraph (c)(2). Since Petitioner has not shown that this Court erred in accepting the Report and Recommendation of the Magistrate Judge, nor has he shown that the Court erred in denying either his Motion for Certificate of Appealability ("COA") or his Motion for Reconsideration of its denial of COA, it is **ORDERED** that a Certificate of Appealability (Instrument No. 29) is

**DENIED.** The Court **INSTRUCTS** the Court Clerk to forward Petitioner's Notice of Appeal (Instrument No. 29) to the Fifth Circuit Court of Appeals.

Since Petitioner was granted leave to proceed *in forma pauperis*, he may continue to do so under Rule 24(a)(3) of the Federal Rules of Appellate Procedure. Petitioner should pursue any and all further relief with respect to the instant case in the Fifth Circuit Court of Appeals.

**DONE** at Galveston, Texas this 26<sup>th</sup> day of April, 2007.

  
\_\_\_\_\_  
SAMUEL B. KENT  
UNITED STATES DISTRICT JUDGE